



Town of Los Gatos Single-Use Carry-out Bag Ordinance Starting February 3, 2014

FAQs for Retailers

ORDINANCE BASICS

What would the Single-Use Carry-Out Bag Ordinance do?

The Single-Use Carry-Out Bag Ordinance prohibits single-use carry-out bags from being distributed at retail stores in the Town of Los Gatos. Reusable bags or bags made of recycled content paper may be provided, but only if the store charges a minimum price of 10 cents per paper or reusable bag. The 10 cent bag charge is non-taxable. Customers may bring their own bags to shop at no charge.

Why is this ordinance being adopted?

The Single-Use Carry-Out Bag Ordinance has been adopted by the Town of Los Gatos and other cities around the Bay Area to decrease the number of bags going to landfill, reduce litter in the local waterways, and save cities money on litter and storm drain cleanup. It also helps the Town meet the trash requirements of the regional Municipal Stormwater Permit issued by the Regional Water Quality Control Board.

The ordinance would help reduce unnecessary waste, contamination in recycling and composting programs, and litter, all of which is costly to taxpayers, as well as harmful to marine life. A single-use carry-out bag ordinance encourages customers to bring their own bags in order to reduce the impact of disposable bags to the County and the environment.

Ordinances have proven effective in other cities. After one year, San Jose found an 89% reduction in bag litter in storm drains, 60% reduction in bags found on streets and neighborhoods, and the use of reusable bags increased from 4% to 62%.

When will the ordinance go into effect?

The ordinance will go into effect on February 3, 2014.

What other cities have adopted this or a similar ordinance?

Those agencies in San Mateo County include Belmont, Brisbane, Burlingame, Colma, Daly City, East Palo Alto, Foster City, Half Moon Bay, Menlo Park, Pacifica, Portola Valley, Redwood City, San Bruno, San Carlos, County of San Mateo and South San Francisco. In Santa Clara County, Campbell, Cupertino, Los Altos, Mountain View, Palo Alto, San Jose, Sunnyvale and the County of Santa Clara have adopted ordinances.

How can I learn more about the ordinance?

Up-to-date information can be found on the Town's website at www.LosGatosCA.gov/ReusableBags.

WHO'S AFFECTED?

Which stores would be affected?

Any retail establishment selling a good directly to the customer, including but not limited to grocery, retail, convenience, pharmacies, farmers markets, clothing, beauty salons, hospital gift shops, video, liquor, pet and hardware stores in the Town of Los Gatos.

Which stores would NOT be affected?

Restaurants and non-profit charitable reuse organizations (thrifths) would not be impacted by the ordinance. Stores providing a service, like a dry cleaner, would not be affected because they provide a service and not a good. A combination service and goods establishment like a beauty salon or a car wash selling goods IS affected.

What is a non-profit charitable reuse organization?

Non-profits are defined as a charitable organization, as defined in Section 501(c)(3) of the Internal Revenue Code of 1986, or a distinct operating unit or division of the charitable organization, that reuses and recycles donated goods or materials and *receives more than fifty percent of its revenues from the handling and sale of those donated goods or materials*. Non-profit charitable reusers include stores like the American Cancer Society Discovery Shop, Happy Dragon Thrift Shop and Goodwill of Santa Clara County. A private consignment store probably does not meet this standard.

Restaurants are not included, but what about a combined retail/food facility?

Restaurants are currently *not* included in the Reusable Bag Ordinance. However, combined facilities such as a grocery store with a deli counter are a bit different.

The food coming from the deli might be placed in a protective bag (e.g. a sandwich or sandwich meat) for sanitary purposes or to keep separate and prevent damage to other goods. (There is no charge for protective bags and protective bags are defined as not having handles.) If the deli sandwich is the only item purchased, it could be carried out of the store in that protective bag; but if

the store puts the deli bag into another carryout bag, it must be placed in the customer's reusable bag or the customer may purchase a recycled paper or reusable bag and the bag charge applies.

What about vegetable and other protective bags?

A protective bag is defined as not having handles and may be provided at no charge for:

- use *within* the store to segregate and transport items to the cashier (e.g. bags for meat, produce, prescriptions, greeting cards, live fish or bulk food or bulk items (e.g. beads); OR
- to protect an item which may become damaged by other goods *when consolidated* in a reusable carryout bag, e.g. fragile glass container in a protective bag to prevent damage from heavier goods; jewelry catching on clothing goods; velvet fabrics from rougher upholstery fabrics.

A protective bag may **not** be used as a carry-out bag unless it contains bulk items. For example, a protective bag may **not** be used for a wine bottle if it is the **only item** purchased—there is no other item from which to protect it.

Would pharmacies be exempt?

Pharmacies as a whole are not exempt. The portion that is exempt is the bags required to protect the privacy of the individuals with prescription drugs. Any additional bag used for carry out is not exempt.

BAGS

What do I do with all my excess plastic bags?

Retailers have a few options for their bags.

- They can return the bags to the manufacturer if possible.
- The larger retailers can send their bags to associated stores in locations that do not have such an ordinance.
- Stores that do not have these options can donate their bags to a non-profit charitable reuser and get a tax write off for the donation.
- Lastly, recycling the bags through appropriate service providers some of which can be found on www.plasticbagrecycling.org.
- Cut off the handles and use the old bag supply for protective bags.

What type of bags can retailers provide to customers if I can no longer use single-use plastic bags?

- Recycled paper bags made of no old growth fiber and a minimum of 40 percent post-consumer recycled content, 100% recyclable with words "reusable" or "recyclable" printed on the outside.
- Reusable bags made of cloth or machine washable fabric or a durable plastic material with handles that is at least 2.25 mil thick and designed for multiple reuse.

Are biodegradable/compostable bags allowed?

No. At this time, biodegradable and/or compostable bags are not included in the ordinance. Compostable bags require specific conditions to break down properly which they are not typically found in the environment.

Are gift bags exempt?

Yes, gift bags would not be considered a carryout bag.

Can I use plastic wrap to wrap my products (i.e., light fixtures, paintings, etc.)?

Yes, the thin film plastic to wrap products is allowable. It does not fall under the definition of single use carryout bag.

What about bacteria on reusable bags?

Reputable, independent studies, have found that reusable bags contain less than 55 colony units of bacteria, which is far less than you would find on a doorknob, kitchen sponge or kitchen countertop. Reusable bags are defined as bags made from machine-washable cloth or rinseable plastic at least 2.25 mil thick. Customers may rinse bags with soapy water or a solution of vinegar and water or lemon or water. Retailers may refuse obviously dirty bags and offer the customer a paper bag for a minimum ten cent bag charge.

BAG CHARGE FEE

Are retailers required to charge for bags?

Businesses are required to charge a minimum of 10 cents per paper or reusable bag. A retailer can choose to charge anything above the 10 cents, especially for the sturdier reusable bags.

The 10 cent charge must be listed as a single line item on the customer's receipt.

Is the bag charge fee taxable?

The minimum ten cent charge is not taxable to the consumer according to the [State Board of Equalization Special Notice: Sales Tax Does Not Apply to City and County Bag Surcharges](#).

Does the sales tax exemption apply to reusable bags as well?

Yes, whether it is paper or other reusable bag, if it is a 10 cent charge it will be exempt from State sales tax. The State considers the bag charge to be a charge imposed by the Town on the customer, not the retailer.

Will the ten cent charge on all bags stay the same?

The ordinance would require the paper and reusable bag charge to increase to 25 cents in January 2015.

Are all bags provided by stores subject to a charge?

No. Produce, bulk items, meat bags, protective bags (for baked good or nails/screws or wine), garment bags (dry cleaners, tuxedos, clothing) and bags used to hold prescription medications from the pharmacy are all exempt. A garment bag is a bag made of plastic or cloth that slips over clothing on a hanger.

Does everyone have to pay the bag charge?

Stores may exempt customers purchasing food with Women, Infant, Children (WIC) or CalFresh/Supplemental Nutrition Assistance Program (SNAP) Programs from the bag charge. It is at the discretion of the retailer. Most grocery clerks are familiar with the distinct coupons and EBT card used by their customers paying in this manner. Outreach to customers encourages them to show their card before bagging begins, but a retailer may back out the ten cent charge at the end of the transaction. *It is important that retailers ask “do you want to use your own bags or do you want to purchase a bag for ten cents” and not just charge for bags without advising the customer first whether or not it is a customer paying with assistance programs or not.*

Who gets to keep the bag charge fee?

Stores keep the entire checkout bag charge in order to offset the cost of allowable bags and recordkeeping. The charge must be a line item on the customer’s receipt, and records kept for three years.

Can a store refund the paper bag cost with a returned item?

That is a business decision so it is at the retailers’ discretion. If a customer returns an item and a bag that they paid for, the retailer has the option to refund the cost of the bag as well.

Can a retailer discount the cost of the 10 cents bag fee? Are promotional bags allowed?

No, a retailer may not discount the cost of the 10 cents bag fee, but may discount other goods to compensate the customer for the bag charge. For example, buy this item for a sales price or buy 10 items, and get a reusable bag. In this case the retailer has discounted the other goods, but the bag charge still appears on the receipt. To prevent concerns about your store providing a “free bag” prohibited by the ordinance, it should be clear to the customer that the other items are discounted to compensate and a 10 cent bag charge is printed on the receipt.

ENFORCEMENT

How will the Reusable Bag Ordinance be enforced?

Enforcement of the ordinance will be handled by Town staff on a complaint basis only.

To Learn More visit www.LosGatosCA.gov/ReusableBags
or contact the Town of Los Gatos at 408.354.6832
ReusableBags@LosGatosCA.gov